

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2527 of 1994

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

ULSIBEM PARSHOTTAMBHAI

Versus

THE STATE OF GUJARAT & 206

Appearance:

MR MB GANDHI for Appellants

MRS SIDDHI TALATI, AGP for Respondent Nos.1 & 2

MR NK MAJMUDAR for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 12/10/2000

ORAL JUDGEMENT

1. Heard Mr. M.B. Gandhi for the appellants, Mrs. Siddhi Talati for respondent nos.1 and 2 and Mr. N.K. Majmudar for respondent no.3.

2. As a result of the hearing and discussion on the principal points of controversy in the matter, and

without going into the finer details and merits of the appeal, a consensus was sought to be worked out.

3. Ultimately, it was suggested, and Mr. Gandhi with due consultation with his clients, stated that the appellants would be satisfied if the 42 appellants are placed at the end of the list of 1989 of Badli workers, which is current and in operation today. Mr. Majmudar for respondent no.3 has no objection to this proposal. Mrs. Siddhi Talati for respondent nos.1 and 2 (instructed by Mr. B.H. Goswami, Under Secretary, Health Department) states that these respondents are not in a position to give specific consent to this proposal. However, as a result of further discussion it is found that if this suggestion is implemented, there would be no prejudice to respondent nos.1 and 2, nor any prejudice to respondent no.3.

4. It is pertinent to note that the list of 1989 is a list of Badli workers, the primary utility of which is to offer work of a casual or a temporary nature to daily wagers according to the exigencies of the situation, and such offer of work is to be made to those persons who find a place on this list, according to the serial number of that person on the list. When the 42 appellants are placed at the end of the list (at present there are 335 names on the list), the first of the appellants would have a right to be offered work of casual nature as a daily wager, only if the 335 persons above him are not available to accept such work on any given day. Merely offering work of this nature to a person placed on the list, provided the offer is made as per the serial number on the list, cannot possibly work to the prejudice of the establishment or administration.

5. The only other utility of this list is for filling in the vacancies of regular employees in class IV, as and when such vacancies occur (apart from the prescribed mode of direct recruitment). For this purpose offers would be made to persons placed on the list as per the serial number on the list. However, regular appointment would only be given and confirmed subject to other applicable criteria being met. Thus, a person on the list has no absolute right of being appointed to a regular vacancy, but only a right to be considered. Even in this situation if the 42 appellants are placed below the 335 names presently on the list, cannot possibly work to the prejudice of respondent nos.1 and 2, or even respondent no.3.

6. For the reasons aforesaid, I am satisfied that

this approach would put an end to the entire controversy at hand and would moreover avoid further litigation.

7. It is, therefore, directed that the 42 appellants be placed at the end of the list of Badli workers in the list of 1989 presently being operated, and that after such placement, this group (of 42 persons) shall be treated at par with the existing group (of 335 persons) and shall be subject to the same rights and obligations.

8. This appeal is accordingly disposed of with no order as to costs. Decree accordingly.

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